

EUROPEAN COMMUNITIES

BULLETIN

10-94 1-95

ECONOMIC AND
S O C I A L
C O M M I T T E E



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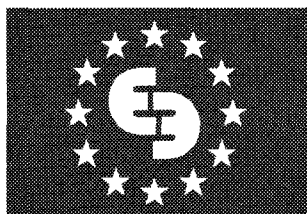
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ECONOMIC AND
S O C I A L
COMMITTEE



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ECONOMIC AND SOCIAL COMMITTEE

Directorate for Communications
Public Relations Division
2, rue Ravenstein, B-1000 Brussels

Tel.: 519 90 11
Fax: 519 98 22

Telegram: ECOSEUR
Telex: 25 983 CESEUR

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SUMMARY

Activities of the Economic and Social Committee December 1994	1
Activities of the Economic and Social Committee January 1995	13

The complete texts of the Opinions summarized in this brochure can be obtained either in the Official Journal of the European Communities, Office for Official Publications, 2, rue Mercier, L-2985 Luxembourg, or directly from the ESC Public Relations Division (Fax: +32.2.519.98.22)

C O N T E N T S

I. 321nd PLENARY SESSION ON 21 DECEMBER 1994 3

1. VAT exemption - Importation of Goods 3
(adopted unanimously)

2. Monetary, financial and balance of payments statistics 4
(adopted unanimously)

3. SMEs' Fiscal Environment 4
(adopted unanimously)

4. XXIIIrd Competition Report 6
(adopted unanimously)

5. Aid to shipbuilding 7
(adopted unanimously)

6. Ecological Quality of Water 8
(adopted unanimously)

II. FUTURE WORK 9

III. PRESENCE AND INFLUENCE OF THE ECONOMIC AND SOCIAL COMMITTEE 11

IV. APPOINTMENTS 12

V. FACT-FINDING VISITS 12

I. 321st PLENARY SESSION ON 21 DECEMBER 1994

The 321st Plenary Session of the Economic and Social Committee of the European Union was held in Brussels on 21 December 1994, with Mr Carlos Ferrer in the chair.

The Session was attended by Mr Norbert Lammert, Parliamentary Secretary of State to the German Federal Minister of the Economy, who presented the conclusions of the German Presidency on behalf of the President-in-Office of the Council.

The Committee adopted the following Opinions at this Plenary Session:

1. VAT EXEMPTION - IMPORTATION OF GOODS

Opinion of the Economic and Social Committee on the *Proposal for a Council Directive amending Directive 77/388/EEC and determining the scope of Article 14(1)(d) as regards exemption from value added tax on the final importation of certain goods*
(COM(94) 370 final - 94/0197 (CNS))

(CES 1401/94)

Rapporteur: Mr Ronald Janssen (Belgium - Workers)

Gist of the proposed Directive

Article 14(1)(d) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes provides that Member States are to exempt final importation of goods qualifying for exemption from customs duties other than as provided for in the Common Customs Tariff, ie primarily goods contained in travellers' luggage and in small consignments sent by individuals.

The Council felt that it was necessary to build on the unity of the internal market attained since 1 January 1993 by focusing on the parallelism between the systems of VAT exemptions and customs duty reliefs:

- by including in a single text the tax exemptions referred to in Article 14(1)(d) of Directive 77/388/EEC;
- by a technique of reference to, rather than reproduction of, customs Regulation 918/83 of 28 March 1983 for the application of the tax exemptions provided for in the above-mentioned Article of Directive 77/388/EEC and by Council Directive 83/181/EEC of 28 March 1983 on imports of a non-commercial character.

The main aims of the proposed amendments are:

- to repeal, from 31 December 1994, the VAT provisions contained in Directives 69/169/EEC and 78/1035/EEC;
- to consolidate the VAT Directives by incorporating the provisions concerned into the 6th VAT Directive (77/388/EEC) by amending Article 14(1)(d) thereof and adding an Annex K;
- to provide for the implementation of the Directive by the Member States by 1 January 1995 at the latest.

Gist of the Opinion

The Committee has not been consulted on the proposal amending the Regulation on reliefs from customs duty but has taken account of the link between the Directive and the Regulation.

The Committee draws the Commission's attention to the loss of autonomy for tax legislation arising from the drafting technique chosen. The automatic application of amendments to the customs arrangements to the VAT Directive makes annex K necessary, listing differences between the regimes in order to prevent distortions of competition in external trade and risks of trade shifts.

The Committee approves the text's objectives with regard to the simplification of existing VAT legislation, and in particular tax exemptions for certain final imports.

2. MONETARY, FINANCIAL AND BALANCE OF PAYMENTS STATISTICS

Opinion of the Economic and Social Committee on the *Draft Council Decision amending Council Decision 91/115/EEC establishing a Committee on monetary, financial and balance-of-payment statistics*
(COM(94) 452 final - 94/0244 (CNS))

(CES 1402/94)

Rapporteur working alone: Mr Roy Donovan (Ireland - Employers)

Gist of the Commission proposal

Acting on decision 91/115/EEC of 25 February 1991, the Council established a consultative committee made up of representatives of central banks and national statistical authorities with the task of assisting the Commission to compile monetary, financial and balance of payments statistics with a view to accomplishing Economic and Monetary Union. The proposal was referred to the Economic and Social Committee which issued an Opinion, 91/C31/06, endorsing the creation of this body.

Article 109f of the EU Treaty gives the European Monetary Institute general responsibility for coordination of monetary policies during the transitional phase and preparing for the third phase of Economic and Monetary Union.

Article 109f(3) further stipulates that the EMI should define the regulatory, organizational and logistic framework required by the future European central banking system, including harmonization of the procedures for compiling, analyzing and disseminating statistics.

The proposed Decision is to take into account the EMI's existence since 1 January 1994 and is principally by designed to ensure its representation on the Committee on Monetary, Financial and Balance of Payment Statistics.

The draft Decision additionally gives the Committee the power to express opinions on its own initiative within its field of competence.

Gist of the Opinion

As this referral is essentially a formality, the Committee approves the draft Council Decision.

3. SMEs' FISCAL ENVIRONMENT

Opinion of the Economic and Social Committee on *The improvement of the fiscal environment of small and medium-sized enterprises*
(COM(94) 206 final)

(CES 1403/94)

Rapporteur: Mr Eugène Muller (Luxembourg - Various Interests)

Gist of the Commission document

The Communication sets out the approach of the Commission to SME taxation. It describes ways of improving the tax environment for SMEs and thus encouraging their establishment and further development. The Commission is eager to have the widest possible discussion with Member States and other interested parties about these measures or any alternatives, so as to find the best way of dealing with SME taxation in the context of the White Paper on growth, competitiveness and employment.

The Communication only considers direct tax aspects. Indirect taxation measures will be proposed in the light of the reports and proposals arising from the revision of the VAT and excise duties system, before the end of the year. The question of business transfers, with particular reference to SMEs, is dealt with in a separate Commission Communication (OJ C 204/1 of 23 July 1994).

Gist of the Opinion

The Committee feels that the problem of the tax environment needs to be dealt with in the broadest possible context, taking account of the situation and trends with regard to overall tax burdens at national, regional and local level in the Member States.

Self-financing

The Committee stresses the need to improve the tax treatment of the reinvested profits of SMEs.

The Committee alerts the Commission to the fact that the Recommendation of 25 May 1994 does not refer to the possibility of changing legal status from incorporated company to partnership. This omission needs to be rectified, all the more so since the two-way change of status is considered in the Communication on the transfer of businesses of 23 July 1994.

Member States should exchange information on the problem of double taxation of income which arises when, first of all, a company's profits are taxed at a proportional rate and then its distributed profits are taxed at progressive income-tax rates. Information should also be exchanged on the double taxation of wealth. In this context, the Committee urges the Commission to press ahead with its endeavours to reach decisions on double taxation.

SMEs' powers of innovation and expansion, sometimes in areas offering little prospect of early profitability, should be borne in mind. In this case, appropriate forms of venture capital financing should be available. Thus the question of transparency in matters relating to risk capital takes on considerable importance and, placed in the context of trans-frontier business, could be dealt with in a Recommendation.

Administrative burdens and permanent establishments

Where a firm establishes a subsidiary or branch - specific legal concepts - the problems involved in carrying out their activities, inter alia which tax arrangements to apply, should not give rise to difficulties.

It is a different matter when operations are based on the concept of a permanent establishment, due to the wide range of situations as regards tax liability arrangements, eligibility for any tax concessions or other benefits granted to firms established in the "host" country, social security schemes, etc.

The Committee considers that hasty action should be avoided and that a careful examination must be carried out of the actual circumstances in the border and more central regions of the Member States.

Transfer of businesses

The main features of any possible action which has tax implications for businesses should be singled out and addressed in discussions on this issue. The following aspects may be mentioned in this connection:

- a) adequate preparation for transfer via:
 - steps relating to the right to change the legal structure;
 - steps relating to the structure and operational procedures of public limited company which are best suited to the needs of SMEs;
 - steps relating to the tax neutrality of operations needed for efficient preparation of transfer of ownership.
- b) Taxation of transfer to a third party, where various aspects come into play relating to the sale of the company, to taxation of profits arising from sales and to the transfer of the enterprise to employees.
- c) Measures which could facilitate the success of family transfers where inheritance taxes and gift taxes have an important part to play; the impact of these measures on various areas of national law and on basic principles of tax legislation should not be neglected. International double taxation is another of the elements to be taken into account.

Proposals for other measures

While specifying that it intends to restrict its comments to the sphere of direct taxation, where the EU's powers and scope for intervention are limited, the Committee calls on the Commission to envisage studies, analyses and consultations in such areas as:

- Partial or total initial exemption from taxes on profits for start-ups and firms changing ownership - possibly subject to conditions on professional qualifications or job creation.
- Possibility of tax relief on investments in SMEs for small and medium-sized private investors, who are a potential source of finance for such firms, and general tax incentives for investment in SMEs.
- Differences between the tax treatment of institutional and private investors, and between quoted and non-quoted companies.
- The extension to all Member States of the system operating in some, at the instigation of the EC, whereby single-member limited companies may opt to pay either personal income tax or corporation tax.
- A system (details to be worked out) whereby SMEs could establish special reserves earmarked for investment in physical assets or for other purposes.
- Deductibility from taxable revenue of the cost of management training and business start-up advice.
- Depreciation arrangements designed to eliminate any SME disadvantages vis-à-vis large companies.
- Member States' tax arrangements in connection with certain national and Community action programmes and aid to SMEs.
- The introduction of certain abatements or exemptions for spouses working as assistants in SMEs.

4. XXIIIrd COMPETITION REPORT

Opinion of the Economic and Social Committee on the XXIIIrd Competition Report (1993)
(COM(94) 161 final)

(CES 1404/94)

Rapporteur: Mr Manuel Ataíde Ferreira (Portugal - Various Interests)

Gist of the Commission document

The report covers all aspects of competition policy:

- mergers
- State aid (Articles 92 to 94)
- liberalization of regulated sectors (e.g. telecommunications, air transport)
- international aspects
- agreements, etc. between enterprises which hinder competition (Article 85) and abuse of a dominant position (Article 86).

This report gives a detailed overview of the Community's competition policy activities in 1993 (with particular reference to the major cases dealt with during the year) and sets out the general principles underlying competition policy. It also establishes priorities and objectives for the future. The report will be the subject of a thorough exchange of views between the Commission and the Parliament, Council and ESC.

In view of the increasing importance of liberalization in the regulated sectors and the intensification of competition in the services sector (e.g. banking, insurance, audiovisual), where competition policy has so far been underdeveloped, this year's report explains in detail the links between these sectors and competition policy. It also takes a thorough look at the links between competition policy, the internal market, industrial restructuring and the jobs crisis, the Maastricht Treaty and the international situation.

Gist of the Opinion

The ESC would urge the Commission, when defining its competition policy, to take into consideration the concerns voiced in this Opinion by the representatives of the various economic and social sectors.

Increased competition is not in itself enough to solve the Community's competitiveness and employment problems: in addition, particular efforts should focus on the legal, administrative, political and social environment in which businesses operate and competition policy is implemented.

An independent industrial policy does not represent a threat to competition policy, and the search for ways round possible conflicts between them does not necessarily mean making the former subordinate to the latter.

Competition policy in the European Union must be viewed in the context of liberalized world trade and the position adopted in this field by the Community's chief trading partners: it is therefore essential that progress be made in aligning competition rules and policies within the WTO framework.

If the principle of subsidiarity is to be put into practice, Member States must act more effectively. In the area of competition policy, whether this is the case or not can only be judged on a case-to-case basis.

Standardized merger control policy is essential for European companies. From this point of view, the scope of Community powers and action must be broadened when the current EEC Regulation No. 4064/89 is reviewed.

Aid granted by Member States or by local or regional authorities, together with that in third countries, undermines competition conditions in the Community. Vigilance must therefore be maintained, and up-to-date information published on the nature and impact of such aid, to provide the best possible guidance for economic actors. More information on the impact of Community aid is also necessary.

Lastly, the ESC calls upon the Commission to guarantee a fair balance between defence rights and the protection of commercial secrets, and to maintain a watchful and active role in defending Community competition. Bodies representing the various economic and social sectors should be recognized as essential to the protection of legitimate interests and the achievement of the Community's aims.

5. AID TO SHIPBUILDING

Opinion on the Economic and Social Committee on the *Proposal for a Council Directive amending Directive 90/684/EEC on aid to shipbuilding*
(COM(94) 444 final)

(CES 1405/94)

Rapporteur: Mr John Simpson (United Kingdom - Various Interests)

Gist of the Commission document

The current rules for State aid to shipbuilding are laid down in the Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding, as amended by Directive 93/115/EC of 16 December 1993.

After several years of negotiations within the OECD, a text of an agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry was finally agreed on 17 July 1994. The Agreement will have first to be signed and then ratified, accepted or approved by all participating countries, with the aim to enter into force on 1 January 1996.

According to the text of the OECD Agreement, as from 1 January 1996 no aid other than the aid allowed by the Agreement shall be authorized in the Community. This leaves one year for the Community yards to prepare for the new situation. The easiest way to achieve this appears to be the prolongation of the present Directive, with only the minimum changes.

Gist of the Opinion

The Committee welcomes the recommendation of the Commission that the existing provisions in the Directive on aid to commercial shipbuilding within the European Union should be extended for a further year to the end of December 1995.

Whilst the proposed agreement negotiated by the OECD is fundamental to the logic of the Commission proposal, the Committee notes that the OECD Agreement has not yet been completely finalized and does not guarantee a comprehensive acceptance by all shipbuilding countries.

In advance of the ratification of the OECD proposals, the Committee believes that shipbuilders within the European Union should continue to have the partial assistance of the present 9% aid ceiling.

The Committee notes that a critical aspect of the OECD Agreement will be the arrangements for enforcement, or dealing with complaints. Particular conditions may be necessary to impose discipline in the ship building market, including sanctions against the owners, or operators, of vessels which are acquired with the aid of illegal levels of assistance, direct or indirect, although the Committee has reservations about the practicability of such sanctions.

The Committee suggests that the European Union should not abandon all support for its own shipbuilding industry until it is clear that there is general compliance with the OECD Agreement.

The most important reservation which is held by the Committee lies not with the present proposed amended Directive but with the implications for the evolution of competition policy for the shipbuilding industry in the years ahead. Enquiries suggest that the recent, and current, increase in shipbuilding capacity in the Far East, especially in South Korea, has been undertaken despite requests from the Community for greater restraint on a voluntary basis.

6. ECOLOGICAL QUALITY OF WATER

Opinion of the Economic and Social Committee on the *Proposal for a Council Directive on the Ecological Quality of Water*
(COM(93) 680 final)

(CES 1407/94)

Rapporteur: Mr Kenneth J. Gardner (United Kingdom - Employers)

Gist of the Commission proposal

"Ecology Water Quality" may be defined as the water quality which is suitable for the needs of the Ecosystem, taking into account such elements as dissolved oxygen, toxic substances, sediment, fish, plankton, etc..

The purpose of the proposed Directive is to ensure that Member States set up monitoring systems to determine the "Ecological Quality" of surface waters within their respective territories. Deadline dates are specified. The subject is dealt with under the following main headings:

- Measurement and monitoring systems
- Detection of pollution sources
- Operational targets
- Integrated programmes
- Public information and consultation

- Exceptional cases and exemptions
- Administrative procedures.

Gist of the Opinion

The Committee welcomes the Commission's proposal but draws attention to difficulties which may arise, under the following heads:

- unrealistic deadline dates for the achievement of targets and for reporting;
- the varied pace of implementation by Member States with the possibility of distortion of competition;
- the absence of cost/benefit analysis;
- the role of the European Environment Agency;
- possible delays in consultation procedures.

II. FUTURE WORK

ECOFIN Section

- Taxes other than turnover taxes which affect the consumption of manufactured tobacco
COM(94) 355 final - 94/0204 CNS
Deadline: February
- Cross-border transfers
COM(94) 436 final - 94/0242 COD
Deadline: February
- Common VAT system (agricultural products)
COM(94) 584 final
Deadline: February
- European system of national and regional accounts
COM(94) 593 final
Deadline: March

Environment Section

- Community action programme on the prevention of AIDS and certain other communicable diseases
COM(94) 413 final - 94/0222 COD
Deadline: February
- Restrictions on marketing and use of dangerous substances
COM(94) 570 final
Deadline: April
- Foodstuffs for special diets
COM(94) 600 final
Deadline: April
- Quality of water for human consumption
COM(94) 612 final
Deadline: May

Agriculture Section

- Additional costs incurred in the marketing of certain fishery products from very remote regions
COM(94) 473 final - 94/0255 CNS
Deadline: January
- Common organization of the market in sheep and goatmeat (subject to confirmation)
COM(94) 643 final
Deadline: January
- Certification of animals and animal products
COM(94) 561 final - 94/0278 CNS
Deadline: February
- Criteria and conditions for Community fisheries/aquaculture assistance
COM(94) 568 final - 94/0281 CNS
Deadline: February
- Honey, coffee, chocolate, sugar, etc.
COM(94) 575 final
Deadline: March
- Support for certain arable producers (subject to confirmation)
COM(94) 636 final
Deadline: to be determined
- Farm prices
Deadline: March/April
- NAFO pilot observation programme - fishery vessels (subject to confirmation)
COM(94) 630 final
Deadline: to be determined

Industry Section

- Vehicle resistance - lateral impact
COM(94) 519 final - 94/0322 COD
Deadline: March
- Vehicle resistance - frontal impact
COM(94) 520 final - 94/0323 COD
Deadline: March
- Gas emissions from diesel engines
COM(94) 559 final
Deadline: March
- Protection certificate - plant protection products
COM(94) 579 final - 94/0285 COD
Deadline: March
- Air pollution from vehicle emissions
COM(94) 558 final
Deadline: March

Regional Development Section

- Programme for the Portuguese textile industry
COM(94) 562 final - 94/0280 CNS
Deadline: February

- 5th report on the reform of the Structural Funds
Deadline: April

Transport Section

- Transport of dangerous goods by rail
COM(94) 573 final - 94/0284 CNS
Deadline: March/April
- Airport handling services
COM(94) 590 final
Deadline: June

Social Section

- Recognition of diplomas for academic and professional purposes
COM(94) 596 final
Deadline: to be determined
- Free movement of doctors and recognition of their diplomas
COM(94) 626 final
Deadline: March
- Legal practitioners working outside country of qualification
COM(94) 572 final
Deadline: March

OWN-INITIATIVE WORK

External Relations Section

- Strengthening of EU-Mercosur relations (+ hearing) (Additional Own-initiative Opinion)
Deadline: second half of year
- Euro-Mediterranean partnership (Maghreb - Mashrak, Israel, etc.)
Deadline: second half of year

III. PRESENCE AND INFLUENCE OF THE ECONOMIC AND SOCIAL COMMITTEE

Activities of the ESC President and Vice-Presidents

6 December 1994: meeting in Brussels with Mr Bernard Landry, Deputy Prime Minister of Quebec, Mr Wally Dowswell, Canadian Deputy Ambassador to the European Union, and Mr Gérard Latulippe, Delegate-General of Quebec.

8 December 1994: discussions in Bonn (Germany) with Mr Friedrich Bohl, Secretary of State, Head of the Chancellor's Private Office

21 December 1994: meeting in Brussels with Mr Dietrich von Kyaw, the German Permanent Representative.

Other activities

2 December 1994: in Brussels, Dr Knuerich, Deputy Director for Research, Federal Ministry for Research and Technology, presented the results of the Research Council of 1 December 1994 to the members of the Section for Energy, Nuclear Questions and Research; Dr Böge, Deputy Director for Energy (responsible for policy issues), Federal Ministry of the Economy, gave the results of the Energy Council of 29 November 1994.

13 December 1994: in Brussels, before the members of the Section for Regional Development and Town and Country Planning: an address by Mr Bruce Millan, European Commissioner in charge of regional policy; an address on urban policies by Mr Francesco Rutelli, Chairman of the "urban policies" Commission of the Committee of the Regions and

Mayor of Rome; a statement by Mr Friedmann, Member of the Court of Auditors, on the Court's 1993 report and on operations coming under the Structural Funds.

IV. APPOINTMENTS

The European Council has appointed Mrs Helle Bundgaard (Denmark - Employers) as a new member of the Economic and Social Committee to replace Mr Søren Krohn, who has resigned.

V. FACT-FINDING VISITS

During the period under review the Economic and Social Committee received groups of visitors from the following bodies:

1 December 1994	ISOPLAN - Institute für Entwicklungsforschung, Wirtschafts- und Sozialplanung GmbH, Saarbrücken (Germany)
1 December 1994	Hogeschool Haarlem, Zwolle (Netherlands)
1 December 1994	Industrial Mission Association, West Midlands Region, Wolverhampton (United Kingdom)
2 December 1994	Ministry of Social Affairs and Health, Helsinki (Finland)
2 December 1994	Verband Deutscher Akademiker für Ernährung, Landwirtschaft und Landespflege e.V., Bonn (Germany)
5 December 1994	Group from Nordbaden (Germany)
6 December 1994	Universidad de Valencia (Spain)
6 December 1994	Mission d'appui aux programmes communautaires, Montpellier (France)
6 December 1994	Generalitat Valenciana, Valencia (Spain)
7 December 1994	Confederazione Cooperative Italiane (Istituto IRECOOP VENETO) (Italy)
8 December 1994	Group of Greek civil servants, in cooperation with the European Institute of Public Administration in Maastricht
9 December 1994	The Helsinki Institute (Finland)
12 December 1994	University of Portsmouth (United Kingdom)
12 December 1994	CONFAGRI - Confederação Nacional das Cooperativas Agrícolas de Portugal (National Confederation of Portuguese Agricultural Cooperatives), Lisbon (Portugal)
15 December 1994	ISOPLAN - Institut für Entwicklungsforschung, Wirtschafts- und Sozialplanung GmbH, Saarbrücken (Germany)
19 December 1994	Lycée du Parc, Lyon (France)

C O N T E N T S

I.	322nd PLENARY SESSION OF 25 AND 26 JANUARY 1995	15
1.	Technology transfer agreements (Additional Opinion) <i>(adopted by a majority and 1 abstention)</i>	15
2.	Boatmasters' certificates inland waterway transport <i>(adopted by a majority and 1 abstention)</i>	16
3.	EU/ILO Relations (Own-initiative Opinion) <i>(adopted by a majority and 4 abstentions)</i>	17
4.	Feed materials <i>(adopted unanimously)</i>	18
5.	Compound feedingstuffs <i>(adopted by a majority and 1 abstention)</i>	19
6.	Fisheries - additional costs in the Azores, Madeira, Canary Islands and Guiana <i>(adopted unanimously)</i>	19
7.	Promotion, information, education, training - public health <i>(adopted unanimously)</i>	20
8.	Prevention of drug abus (Own-initiative Opinion) <i>(adopted by a majorité, 2 votes against and 16 abstentions)</i>	21
9.	2nd Annual Report of the European Observatory for SMEs <i>(adopted by a majority and 4 abstentions)</i>	23
10.	Fruit and vegetables <i>(adopted by 73 votes in favour, 39 votes against and 11 abstentions)</i>	24
11.	Relations EU/Russia/Ukraine/Belarus (Own-initiative Opinion) <i>(adopted by a majority and 3 abstentions)</i>	26
II.	FUTURE WORK	28
III.	APPOINTMENTS	29
IV.	PRESENCE AND INFLUENCE OF THE ECONOMIC AND SOCIAL COMMITTEE	29
V.	FACT-FINDING VISITS	30

I. 322nd PLENARY SESSION OF 25 AND 26 JANUARY 1995

The 322nd Plenary Session of the Economic and Social Committee of the European Communities was held in Brussels on 25 and 26 January 1995. The Committee President, Carlos Ferrer, took the chair.

The Session was marked by the instatement of the Committee's members from the three new Member States - Austria, Finland and Sweden - and, by the attendance, on 25 January 1995, of Alain Lamassoure, the French Minister with special responsibility for European Affairs, who presented the work programme of the French Presidency on behalf of the Presidency-in-office of the Council.

During the Session, the ESC adopted the following Opinions:

1. TECHNOLOGY TRANSFER AGREEMENTS (Additional Opinion)

Opinion of the Economic and Social Committee on the *Proposed Commission Regulation on the application of Article 85(3) of the Treaty to certain categories of technology transfer agreements*
(OJ No. C 178 of 30 June 1994, p. 3)

(CES 44/95)

Rapporteur: Mr John Little (United Kingdom - Employers)

Gist of the Commission document

The Commission is paying particular attention to the revision of the Regulations for exemption by category for patent licensing agreements and agreements for the communication of know-how. This is one of the most important tasks in the field of competition policy. The Commission intends to combine the two existing Regulations and make substantial amendments to the texts currently in preparation.

Regulation No. 19/65/EEC empowers the Commission to apply Article 85(3) of the Treaty by Regulation to certain categories of agreements and concerted practices falling within the scope of Article 85(1) which include restrictions imposed in relation to the acquisition or use of industrial property rights - in particular of patents, utility models, designs or trade marks - or to the rights arising out of contracts for assignment of, or the right to use, a method of manufacture or knowledge relating to the use or to the application of industrial processes.

The Commission has made use of this power by adopting Regulation (EEC) No. 2349/84 of 23 July 1984 on the application of Article 85(3) of the Treaty to certain categories of patent licensing agreements, as amended by the Act of Accession of Spain and Portugal, and Regulation (EEC) No. 556/89 of 30 November 1988 on the application of Article 85(3) of the Treaty to certain categories of know-how licensing agreements, both amended by Commission Regulation (EEC) No. 151/93 of 23 December 1992.

These two block exemptions ought to be combined into a single Regulation covering technology transfer agreements, and the rules governing patent licensing agreements and agreements for the communication of know-how to be harmonized and simplified as far as possible, in order to encourage the dissemination of technical knowledge in the Community and to promote the manufacture of technically more sophisticated goods.

The new Regulation should apply to the licensing of Member States' own patents, Community patents, and European patents ("pure" patent licensing agreements). It should also apply to agreements for the communication of non-patented technical information such as descriptions of manufacturing processes, recipes, formulae, designs or drawings, commonly termed "know-how" ("pure" know-how licensing agreements), and to combined patent and know-how licensing agreements, which are playing an increasingly important role in the transfer of technology ("mixed" agreements).

Gist of the Opinion

The Committee is supportive of the Commission's proposals subject to the qualifications expressed in subsequent parts of the Opinion and to certain key changes being made.

It appears to the Committee that inadequate weighting has been given to the necessity both to encourage the dissemination of new technology and to avoid unnecessary procedural burdens.

The proposed Articles 1.5. and 1.6. of the draft Regulation would introduce the concept of a market share threshold as a condition for claiming the benefit of block exemption. The Committee feels that the concept behind these proposals is flawed and based on misconceptions and that the ambiguity and uncertainty generated would render the whole regulation unworkable.

Therefore, the Committee strongly urges the Commission to withdraw Articles 1.5. and 1.6. in their entirety.

The Committee considers that a five-year period of territorial protection from passive sales is inadequate and that similar protection should be given as from sales actively pursued by a licensee.

Under current legislation, the Commission may oppose exemption in a particular case, and can be requested by a Member State to so do.

The Committee recommends that the procedure be retained and improved by reducing the period of six months for the Commission to make a decision.

The transitional provisions are considered by the Committee to be unsatisfactory.

It should be made clear that the new block exemption rules and procedures should apply only to **new** agreements coming into effect after the date of entry into force of the new Regulation.

The Committee suggests reinstatement of a provision similar to Article 2(1) 4(a) of Regulation 556/89 on know-how to the effect that the freedom of the licensee to use his own improvements or licensing them to other parties should not lead to disclosure of the know-how supplied by the licensor.

The principles of Articles 1.5. and 1.6. should be incorporated in Article 7 as further particular cases justifying withdrawal of exemption.

The Committee suggests that a period for application of the Regulation of only eight years is too short and that a ten-year period - as applies to the two current regulations - is desirable for the purposes of legal certainty.

2. BOATMASTERS' CERTIFICATES INLAND WATERWAY TRANSPORT

Opinion of the Economic and Social Committee on the *Proposal for a Council Directive on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community*
(COM(94)359 final - 94/0196(SYN))

(CES 45/95)

Rapporteur: Mr Sergio Colombo (Italy - Workers)

Gist of the Commission proposal

Directive 91/672 of 16 December 1991 covered mutual recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway.

This Directive goes one step further in setting out common harmonized conditions for obtaining a national boatmaster's certificate. These are:

- a minimum age of 21;
- physical fitness, as testified by a doctor's certificate;
- at least four years' professional experience, which may, however, in certain cases be replaced by a practical examination, and
- professional knowledge, as defined in Annex II to the proposed Directive. In certain cases additional knowledge may be required on local conditions; similarly, more stringent requirements may be made for the carriage of passengers or dangerous substances.

The Directive is to take effect on 1 January 1996.

Gist of the Opinion

While the Committee broadly endorses the proposed Directive, it urges the Commission to take steps to ensure the timely mutual recognition and harmonization of certificates in general, including those required to sail sea-going vessels and pleasure craft.

The Committee feels that it would be more appropriate to set a minimum age of 21 for obtaining the certificate, bearing in mind the provisions of Article 7(1) and the fact that a boatmaster is responsible for crew management.

3. EU/ILO RELATIONS (Own-initiative Opinion)

Own-initiative Opinion of the Economic and Social Committee on *European Union-International Labour Office (ILO) Relations*

(doc. CES 45/95)

Rapporteur: Mrs Ursula Engelen-Kefer (Germany - Workers)

Gist of the Own-initiative Opinion

A dispute has been smouldering for several years between the EC Commission and most Member States about the EU's legislative competence in respect of the establishment of ILO standards. The European Court of Justice, on 19 March 1993, pointed out that the independent role of the EU Member States and the social partners - trade unions and employers' associations - must not be restricted. The Court of Justice did, however, also rule that, in the case of Convention 170, competence was shared between the Member States and the European Union and that, as a consequence, they would have to cooperate closely in respect of the adoption of the said Convention.

On the basis of the above provisions the Commission has submitted its Proposal for a Council Decision on the exercise of the Community's external competence at International Labour Conferences in cases falling within the joint competence of the Community and its Member States. This Proposal has, however, not been adopted by the Council. The Committee welcomes the clear recognition of the ILO's specific institutional characteristics - in particular the tripartite principle and the value of the ILO's work in the field of standards on a worldwide level.

Although the EU is at present not in a position to become a member of the ILO, the Commission has attempted on a number of occasions to limit the competence of the Member States and both sides of industry for drawing up, adoption, ratification, and implementation of the ILO's international labour standards.

The Committee finds it particularly disturbing that the Commission has attempted to call into question the independent role exercised by the representatives of employers and workers in the various ILO procedures and decisions in accordance with the tripartite principle.

The members of the Governing Body of the International Labour Office representing western European employers and workers provided a detailed explanation of their ongoing role in the ILO and their concerns regarding the EC Commission attempts to jeopardize this role; the representatives called upon the competent authorities of the EU to distance themselves from any attempt to jeopardize application of the tripartite principle in the ILO, or to form regional blocs, thereby destroying the organization's worldwide character.

The Committee wishes to strongly reaffirm the abovementioned concerns expressed by western European employers' and trade union delegates.

The Committee supports the endeavours which are clearly being made to enable both EU States and all other Member States of the ILO to ratify ILO Conventions.

The Commission expresses the view that in future most ILO Conventions will probably fall within the joint sphere of competence shared between the Community and its Member States. The proposal for a Council decision states that "it is the responsibility of the Council, on a proposal from the Commission ... to decide whether the Convention concerned should be concluded by the Community and its Member States and subsequently, as the case may be, to invite the Member States to conclude the Convention on behalf of the Community as well". Ratification by individual Member States would therefore

be practically out of the question even where the national legislation of that State met the conditions of the relevant Convention. The Committee is unable to accept the Commission proposal.

A satisfactory solution can be secured by negotiations between all the parties concerned. The Committee recognizes in this respect that the representatives of employers and employees in the ILO, together with the ETUC and UNICE, have an obvious, legitimate interest in taking part in these negotiations.

It is, moreover, abundantly clear that there is a considerable discrepancy between, on the one hand, the Commission's attempt to increase its influence in the ILO and, on the other hand, the repeated calls to the Commission by the European Parliament and the Economic and Social Committee to draw on existing ILO standards when formulating its social policy. A large number of ILO Conventions have yet to be incorporated in EU provisions. The Committee calls upon the Commission and the Council of Ministers to follow these proposals and the decisions in similar vein adopted by the Heads of State and Government and the European Parliament. This would be far more useful than pursuing fruitless arguments over competence. The Committee suggests that it draw up an Own-initiative Opinion on the issue of which ILO Conventions should be proposed for ratification by the EU¹.

4. FEED MATERIALS

Opinion of the Economic and Social Committee on the *Proposal for a Council Directive on the circulation of feed materials amending Directives 70/524/EEC, 74/63/EEC, 80/511/EEC, 82/471/EEC, 82/475/EEC, 91/357/EEC, 91/516/EEC, 92/87/EEC and 93/74/EEC as well as repealing Directive 77/101/EEC*
(COM(94) 313 final)

(CES 47/95)

Rapporteur: Mr Kenneth J. Gardner (United Kingdom - Employers)

Gist of the Commission proposal

The purpose of the proposed Directive is to regulate the circulation of feed materials and to replace Council Directive 77/101/EEC on the marketing of straight feedingstuffs. It is based on the following principles:

- a) Straight feedingstuffs and raw feed materials are to such an extent similar and close to each other that in order to ensure a consistent approach they are included in one category, "feed materials".
- b) All feed materials brought into circulation should be wholesome, unadulterated and of merchantable quality.
- c) Feed materials brought into circulation are subjected to a destination labelling, depending on the final user. Furthermore, they are subjected to a specific denomination labelling, for the main feed materials based upon a given description provided for at Community level.
- d) Feed materials, not being vegetable feed crops, which are brought into circulation in quantities < 10 kg and destined for other end users than registered feed compounders, are subject to a declaration requirement of designated analytical constituents provided for at Community level.
- e) Feed materials with higher amounts of undesirable substances and products than permitted by Council Directive 74/63/EEC may only be delivered for further processing to registered feed compounders.
- f) Amendments to the Annex are of a scientific nature. To facilitate the adoption of implementing measures, the procedure introducing cooperation between the Member States and the Commission by means of a consultative procedure within the Standing Committee for Feedingstuffs will be followed.
- g) In order to improve clarity and comparability in international feed identification and feed data exchange, the Commission should be entrusted with the task of adopting implementing provisions, when appropriate, with a view to introducing an easily retrievable international coding system for feeds.

¹

See the ESC's Opinion on basic Community social rights (OJ No. C 126 of 26.05.89).

- h) Mixtures of feed materials other than those explicitly listed, are considered as semi-manufactured compound feeds and are subject to the marketing provisions of Council Directive 79/373/EEC.
- i) Specific provisions are laid down with a view to ensuring that the accuracy of the declarations made at all stages of circulation of the feed materials can be officially verified in a uniform way throughout the Community.

Gist of the Opinion

The Committee thinks that the Commission should re-examine its proposal given the need to reduce the load of administrative costs throughout the EU and make the EU more competitive internationally. With this proviso, the Committee fully endorses the proposal subject to a few remarks and changes.

5. COMPOUND FEEDINGSTUFFS

Opinion of the Economic and Social Committee on the *Proposal for a Council Directive amending Council Directive 79/373/EEC on the marketing of compound feedingstuffs*
(COM(94) 279 final)

(CES 48/95)

Rapporteur: Mr Kenneth J. Gardner (United Kingdom - Employers)

Gist of the Commission proposal

Since the implementation of Council Directive 90/44/EEC, harmonized rules have been adopted on labelling requirements for compound feedingstuffs and Commission Directive 92/87/EEC has established a list of the main ingredients normally used and marketed for the preparation of compound feedingstuffs intended for animals other than pets.

This proposal provides for the following changes:

- "ingredients (raw materials)" are to be called "feed materials";
- mixtures of feed materials, other than those listed in the Annex to the new Directive, are to be considered as semi-manufactured compound feedingstuffs subject to the special labelling provisions laid down for this category in Council Directive 79/373/EEC;
- inclusion of a list of the main feed materials, which should also be used for the labelling of feed materials used in compound feeds.

Gist of the Opinion

The Committee approves the Commission proposal subject to a number of stylistic changes.

6. FISHERIES - ADDITIONAL COSTS IN THE AZORES, MADEIRA, CANARY ISLANDS AND GUIANA

Opinion of the Economic and Social Committee on the *Proposal for a Council Regulation (EC) establishing a system of compensation for the additional costs incurred in the marketing of certain fishery products from the Azores, Madeira, the Canary Islands and the French department of Guiana as a result of their very remote location*
(COM(94) 473 final)

(CES 49/95)

Rapporteur: Mr José Bento Gonçalves (Portugal - Employers)

Gist of the Commission Proposal

The purpose of this proposal is to continue the arrangements in place since 1992, which have been extremely successful. Its aim is to compensate for the additional costs, caused by remote location, of the processing of tuna in the Azores and Madeira, the freezing and marketing of fresh tuna and freezing and processing of sardines and mackerel in the Canary

Islands, and the production and marketing of prawns in Guiana. The producers to whom the arrangements apply have, with the help of the Community system of compensation, been able to overcome the constraints imposed by the verified additional costs of transporting their products to market on the European mainland.

The proposal aims solely to compensate for the verified additional costs of marketing the products in question. Its object, therefore, is to bring the operating conditions into line with those on the mainland so that the sector can be integrated into the single market.

It should be noted that the proposed measures seek to provide market support in order to offset a permanent geographical disadvantage and do not therefore have any structural aspect or effect. For that reason they are to be financed by the EAGGF Guarantee Section and cannot be charged to the newly established financial instrument for fisheries guidance (FIFG) which, by definition, is to be used only to finance structural measures.

These measures concern a sector which is of particular economic and social importance for the regions in question and for which there exists virtually no possibility of conversion. They will help to make the sector more competitive by compensating, through the Council's programmes of specific options to help the Community's outermost regions, for the handicap which isolation constitutes for the local fishery products industry.

Gist of the Opinion

The Committee supports the proposal.

It also asks the Council and Commission:

- a) to consider the promotion of actions to diversify these regions' productive structure; this should be made a regional policy objective and should back up the support provided by the present proposal;
- b) to ensure that the aid goes to small-scale fisheries, bearing in mind Article 3 of Commission Regulation (EC) No. 2954/94 of 5 December 1994 (OJ L 312, page 3);
- c) to extend the scope of the Regulation to other species.

7. PROMOTION, INFORMATION, EDUCATION, TRAINING - PUBLIC HEALTH

Opinion of the Economic and Social Committee on the *Communication from the Commission and proposal for a European Parliament and Council Decision adopting a programme of Community action on health promotion, information, education and training within the framework for action in the field of public health* (COM(94) 202 final)

(CES 50/95)

Rapporteur: Mr Sergio Colombo (Italy - Workers)

Gist of the Commission proposal

Based on the Communication on the framework for action in the field of public health (COM(93) 559), and broad ad hoc communication, the proposal comprises a programme of general health promotion measures to be taken in the Community.

The Commission points out that the primary focus of health prevention must be health-oriented rather than disease-oriented. It does not concern itself with care, treatment and medical assistance but can, if carried out effectively, lead to a reduction in the costs of treatment and care, a matter of major concern for all the Member States.

The action programme highlights the following matters:

- information on health, health education in various settings, particularly at school and at work;
- vocational training measures for professionals involved in health promotion and preventative medicine;
- encouragement of cooperation between Member States on health promotion policies, strategies and structures.

Other priorities identified are prevention and promotion measures concerning key elements of public health (e.g. nutrition and cardiovascular disease) which are not specifically dealt with in the action programmes concerning specific diseases or other health problems such as cancer, drugs, AIDS and other communicable diseases.

The action programme is to run over a five-year period; an intermediate progress report will be submitted to the European Parliament, the Economic and Social Committee and the Committee of the Regions.

Gist of the Opinion

As already emphasized in the Opinion on the framework Communication², the Committee endorses the need for Community action in the field of public health, and considers this move essential for disease prevention, the dissemination of health information and health education. It believes that a consistent prevention plan, based on an improvement in habits and lifestyles, can not only enhance the health care rights and quality of life of European citizens, but also help to curb medical treatment and care costs, which is a major problem currently facing all Member States.

It is important to remember that the resources hitherto made available by the Member States under this heading have been insignificant by comparison with actual health care spending and that a Community stimulus, turning to full advantage current experience, might make a useful contribution to improving resource utilization.

The Committee endorses the reference to the subsidiarity principle and the requirement of proportionality in point 65 of the Commission Communication but emphasizes that the Community should act as a driving force and enhance the value of national and local initiatives; in order to guarantee a high level of public health protection in Europe.

The Commission should set up appropriate structures to encourage directly the organization and management of national and trans-national pilot schemes, involving non-governmental organizations representing all parties concerned, and scientific or training associations operating within Europe. In the first instance, National and European Scientific Associations operating in the sphere of public health should be involved, and they should be allowed to play an active role in training health professionals and, by extension, in health education.

Finally, the Committee recommends that the schemes promoted should have a solid, scientific underpinning; that they be subject to cost-benefit analysis; and that special attention should be paid to the authenticity of public information, so as to avoid over-simplification and distortions.

8. PREVENTION OF DRUG ABUSE (Own-initiative Opinion)

Own-initiative Opinion of the Economic and Social Committee on the *Prevention of drug abuse*

(CES 51/95)

Rapporteur: Mrs Angela Guillaume (United Kingdom - Various interests)

Gist of the Own-initiative Opinion

Despite all the efforts of European governments, including policies to combat the illegal production, sale and supply of all drugs, and the commitment of massive resources, these policies have not had the desired effect. It is now recognized that enforcement and supply-side measures alone will not solve the problem of drug misuse.

While supportive of enforcement policies coordinating the pursuit of those engaged in the production, trafficking and supply of illicit drugs, the Committee considers that equal emphasis should be given to the promotion of "demand reduction" policies. These should include:

- adequately resourced treatment, rehabilitation and education programmes targeted towards those who might be inclined to consume illicit drugs;
- education and preventive programmes towards those groups who are vulnerable to the risk of illicit drug consumption.

² CES 848/94.

While the scale of the problem demands a European-wide prevention policy, there is also a need to change attitudes. No Member State should have to run the risk of being considered as a drug haven because of innovative action. No single region, city, local community or local school should have to worry about its reputation because it wishes to promote a proactive drug abuse prevention policy. A coordinated preventive approach would help bring the problem out into the open, help citizens in each community to recognize their individual and collective responsibilities.

The Committee considers that the European Union needs a much clearer policy. It would urge Member States to promote comparable coordination groups.

At local and regional levels, integrated networks need to be established, based on coordination groups involving:

- local and municipal authorities;
- staff adequately trained in drug-abuse prevention;
- medical and paramedical staff;
- police officers;
- teachers and head teachers;
- employers, employment agencies;
- parents;
- family associations, community support groups and voluntary agencies;
- local press, television and radio networks;
- full-time professional coordinators;
- coordination of health services, local authorities, employment agencies and the social partners.

At national level, governments might consider setting up coordination centres responsible for overseeing local and regional coordination groups, providing specific support where necessary and ensuring cross-referencing and a structured response to drug abuse.

At European level, the following actions could be envisaged:

- national drug coordinators group to be supplemented by a multi-disciplinary team representing all "three pillars" of the European Union;
- the setting-up of an EU Standing Committee on Drug-Abuse Prevention;
- the active implementation of Article 129 encouraging "cooperation" and "coordination" between the Member States on public health matters "including drug dependence" and supporting the Commission's right of initiative in this area;
- support for efforts by the Commission to take a more pro-active role to promote, publish and circulate best practice;
- the organization of more Drug-Prevention Weeks;
- EC-sponsored training and education initiatives in drug-abuse prevention;
- the rapid implementation of the specific Commission action-plan proposals for the training and exchanges of professionals;
- EU awareness campaigns and networking;
- EC-funded transnational pilot projects in target areas, helping to establish a pan-European coordination network.

9. 2nd ANNUAL REPORT OF THE EUROPEAN OBSERVATORY FOR SMEs

Opinion of the Economic and Social Committee on the *2nd Annual Report of the European Observatory for SMEs*

(COM(94 352 final)

(CES 52/95)

Rapporteur: Mr Paulo Jorge Marcelino Baptista de Andrade (Portugal - Employers)

Gist of the Commission document

Since 1993, the European Observatory for SMEs has issued an independent annual report which gives a structured overview of the nature and scale of European SMEs, including the craft trades.

The first annual report concentrated on the structure of SMEs in general and their fields of operation. This second report has more focus on dynamics than the first one, presenting developments as well as structures, in such fields as employment creation and training. The report also examines the current importance of the craft trades in the European economy, provides a dynamic picture of several variables of the SME sector as well as the business environment in each Member State, and presents the results of an initial convergence/divergence analysis, thus monitoring anticipatory effects of the completion of the Internal Market during the period 1988-1993.

Gist of the Opinion

A European Network was set up to implement the project. It comprises twelve bodies, one from each Member State.

The financial resources allocated to the network should be increased so that each of the twelve members can assign one or more of their specialists to work on it on a full-time basis.

If a chapter of general recommendations is included, it should always be the responsibility of all the twelve participating organizations.

The Committee considers that the choice of subjects to be examined each year should take account of the opinion of SME representatives, who should be consulted on the matter.

The criterion used to define a SME has the great advantage of being extremely practical.

However, it is difficult to understand why the cut-off point is 500 employees, and not 200 or 250.

The concept of "craft dominated sector" has been devised with a view to assembling data on the craft sector on an empirical basis. However, the criterion is far from universally accepted, since the sector is not precisely defined in many Member States.

The Commission will have to make a determined effort to rectify the lack of statistics concerning SMEs.

The Committee is critical of the report's macroeconomic analyses, and especially its failure to take account of the economic effects of inflation and interest rates.

The Committee asks the Commission, Council and EIB to find a way of providing an advance guarantee (at the time of the transaction) of the ecu exchange rate for the date of payment of the good or service. Alternatively, measures should be devised so that SMEs can have a simpler and less expensive method of engaging in forward currency transactions through existing financial institutions.

The Committee considers that the impact of the internal market on SMEs requires an urgent survey in all Member States.

In assessing the chapter on capital and finance, the Committee notes the need to identify the various interest rates applied to SMEs and, inter alia, the mutual guarantee systems available to them.

As soon as possible, the Observatory must assess the effectiveness of the Commission's pilot schemes for tackling the financial problems.

In order to encourage research and the diffusion of technology, closer intra-EU linkage should be promoted not only between businesses, but also between businesses and universities and research institutes.

Cross-border cooperation is still making very slow progress.

If the situation is to improve, the local and regional authorities and local business leaders must agree on clear strategies for resolving the problem.

It would be helpful if future reports could include an analysis of the practical implementation of measures to promote free competition (especially to avoid abuses of dominant market positions and the formation of cartels in certain sectors).

The Committee understands and accepts the reasons for attempting to find a definition of the craft sector that can be used to make comparisons between Member States.

However, it feels obliged to sound a note of caution about the data and conclusions formulated in the report on the basis of the term "craft dominated sector", as these might give a false impression of the **real** importance of the sector in each Member State.

Similar caution will be needed if these data are to be used as a basis for drawing up policy strategies.

10. FRUIT AND VEGETABLES

Opinion of the Economic and Social Committee on the *Communication from the Commission to the Council and the European Parliament on the development and future of Community policy in the fruit and vegetables sector* (COM(94) 360 final)

(CES 54/95)

Rapporteur: Mr José Bento Gonçalves (Portugal - Employers)

Gist of the Commission Communication

In the Commission's view the main objective of the reform must be to help and encourage producers in the Union to rise to the challenges of the coming years and develop and strengthen their assets, namely:

- the quality of their products, which are mostly intended for the fresh market and are often highly perishable;
- their dynamism and ability to adapt to a changing market;
- the services which they can offer alongside their products. Environmental protection and the supply of a range of varied and healthy products must be included among the said services.

Altogether, despite some undeniable structural imbalances, the present market organization provides an operational framework which answers the requirements and has proved its worth. All the positive features - market orientation, decentralization of management and grouping of an often "fragmented" supply - should be reinforced. The Commission is therefore in favour of reform proposals which would consolidate the positive features of the present market organization, while simplifying it and remedying any drift or weaknesses observed.

The Commission's aim is to redirect budgetary expenditure towards the positive measures which contribute to a sound future and take environmental concerns into account.

It proposes a mix of various types of measure:

- better grouping of supplies to match increasingly concentrated distribution;
- a new way of managing short-term surpluses and gradual elimination of structural surpluses;
- a better balance between fresh produce and processed products;
- redefinition of standards;

- a targeted approach to specific problems affecting certain products of "minor" importance in Community terms, but of significant local or regional importance;
- more stringent controls.

The successful implementation of the Uruguay Round conclusions is an integral part of the new scenario for the fruit and vegetables sector. The Commission will take care to ensure that the Community preference authorized by the conclusions is not jeopardized by such implementation.

Gist of the Opinion

The Committee welcomes the Communication, which considers the prospective reform of the sector's common market organization with a view to helping EU fruit and vegetable producers to make the most of their potential. However, since certain key aspects of the reform are only sketched out very vaguely, the Committee reserves the right to draw up a more detailed Opinion when it has seen the concrete proposals.

The Committee thinks that the establishment and operation of producer organizations need to be improved in order to concentrate supply to match the growing concentration of demand. However, account must also be taken of the specific situation of each region and, in particular, of the average size of the farms concerned.

Agricultural cooperatives, especially in areas where farms are small, are well placed to act as producer organizations too, since they have considerable technical and commercial experience, and already take in production on behalf of their members.

The Committee wonders what impact the agreements with non-EU countries in the Mediterranean region and eastern Europe will have on the sector.

The Committee points out that the introduction of joint financing by producers and Member States would make the basic CAP support for the sector inconsistent with the support given to other CAP products (cereals, oilseeds, livestock), which have already been reformed but are still fully financed from the EAGGF Guarantee Section.

The Committee views with interest the proposal to set up operating funds for producer organizations. It considers such funds to be a valuable instrument for the programmes to be implemented by producer organizations, with the primary aim of securing the requisite competitiveness.

Withdrawal must only be used as a market stabilization mechanism for tackling short-term surpluses, and must in no circumstances become a production objective. Measures must be adopted to prevent this.

The Committee thinks that new alternative outlets should be sought and developed for the products withdrawn, as destruction is generally frowned upon by the public.

Under the terms of the GATT agreements, a system must be devised for applying the entry price system and the special safeguard clause. Here one must bear in mind the way in which fruit and vegetables are marketed.

Quality standards should be maintained, as they are important for market transparency and facilitate trade. They also provide useful guidance for the consumer.

However, the Committee advises the Commission and operators to review the standards so as to gear them more closely to consumer requirements, particularly as regards hygiene, nutritional value and certain organoleptic qualities.

Processing must provide a fixed outlet for some Community fruit and vegetable produce. For a number of products, it is now merely a marginal outlet which takes second place to the fresh market. Stable, transparent relations must be forged between producers and processors.

11. RELATIONS EU/RUSSIA/UKRAINE/BELARUS (Own-initiative Opinion)

Own-initiative Opinion of the Economic and Social Committee on *relations between the European Union and Russia, Ukraine and Belarus*

(CES 55/95)

Rapporteur: Mr Jens Peter Petersen (Germany - Employers)

Request to draw up an Own-initiative Opinion: Background

At its meeting on 28 April 1993 the Section for External Relations, Trade and Development Policy decided to ask the Committee for authorization to draw up an Own-initiative Opinion on the partnership between the EU and Russia, Ukraine and Belarus. The Section's request was approved by the Plenary Session on 29 April.

In July 1992 the Commission submitted to the Council draft negotiating directives for a new kind of agreement on partnership and cooperation with the newly independent States of the former Soviet Union (the twelve CIS States). These agreements, which will be wider in scope than the trade and cooperation agreements with the former USSR, form the basis for a new phase in relations with the Community.

The agreements will be mixed-type agreements, i.e. they will be concluded with the European Union as well as the Member States. In each case the partner will be a particular republic so that, despite the proposed common structure of the agreements, account can be taken of the needs and potential of each partner State.

It is envisaged that the planned agreements will take a similar form to the Europe agreements, but will be non-preferential and of more limited scope. They will mainly contain rules on trade, business and investment activity, and on economic, financial and cultural cooperation. They will also - and this is of particular interest to the economic and social interest groups - provide for forms of political dialogue.

At the beginning of October 1992 the Council asked the Commission to negotiate with the independent States of the former Soviet Union with a view to the conclusion of partnership and cooperation agreements. In the meantime the negotiations with Russia have reached the seventh round; in the case of Ukraine and Belarus, the second round will commence shortly.

Since the emphasis of the partnership and cooperation agreements will be on economic and trade relations, it would be of great interest for the socio-economic organizations to comment, including in the form of a Committee Opinion on the EU's relations with the newly independent States of the former USSR.

Gist of the Own-initiative Opinion

The Committee broadly welcomes the partnership and cooperation agreements, but stresses that differences in the negotiating clout of the independent Republics should play no part in the shaping of treaty relations, and that no distinction should be made between the European and Asiatic Republics. Any inequality of treatment would exacerbate the worrying disintegration of the CIS economic area and create considerable problems for the recently established CIS economic committee. These non-preferential agreements, which are of a hybrid nature and consequently require ratification, define a broad range of political, economic and commercial relations. Negotiations with Belarus have finished.

The Committee unreservedly welcomes the determination of the parties to work together to strengthen the political and economic freedoms which constitute the very basis of the partnership. The Committee also shares the parties' belief in the paramount importance of the rule of law, of respect for human rights (particularly those of minorities), of the establishment of a multiparty system with free and democratic (secret) elections and of economic liberalization leading to a market economy. At the same time the Committee endorses the link established by the parties between the implementation of partnership and the continuation of political and economic reforms in these countries.

The Committee considers the parties' statement that Russia is a country with an economy in transition, to be a political compromise. The future will show to what extent this assessment is economically realistic and viable. Ukraine on the other hand continues to be classified as a state-trading country. The Committee feels that the different classification can probably be attributed mainly to the fact that for the Community Russia was the stronger negotiating partner.

The Committee is very critical of the absence from both agreements of an open commitment to the principles of social justice. The negotiating partners should be sufficiently aware that the processes of transformation are associated with huge social upheavals. They may ultimately mean democracy and the market economy being rejected by the people because the

social and human cost is seen as too high. In this context, the Committee urges that the agreements speak not merely of a market economy, but of a social market economy.

The Committee considers the content of the agreement's general principles to be highly unsatisfactory. It is true that respect of democratic principles and human rights is an important component of the agreement. But this is insufficient. Above all, the Committee regrets the Community's failure to make the introduction and maintenance of market economy principles an integral part of the agreement with Russia. The Committee feels that dropping this element gives a false political signal, which is discouraging for Russia's market-orientated reformers. In addition, the Committee urges that the maintenance of basic social rights and minority rights be made a substantive part of the agreement.

The Committee attaches importance to the evolution clause under which a joint study is to be carried out in 1998 to establish whether the economic preconditions (e.g. basic market economy structures) have been fulfilled in Russia (or Ukraine), thus enabling negotiations to begin on the establishment of a free trade zone.

The Committee reiterates its criticism of the failure to mention the essential contacts between the economic and social groups in the countries concerned. It should be possible to achieve consensus in the Community that there is no chance at all of creating a pan-European economic area if economic and social interest groups are kept in the background. The Committee suggests that during the first revision of the agreements the Community consider whether the time has come to institutionalize contacts between the members of the ESC and the members of corresponding bodies in the Eastern European partner states by setting up a joint advisory committee. In the interim period, dialogue and cooperation between the committee's social groups could be discussed.

The Committee welcomes the reciprocal abolition of quantitative import restrictions, without prejudice to the special rules for textiles, ECSC products and nuclear material. It feels that the safeguard clause agreed in the event of market disturbances should be made more precise and replaced as soon as possible by the relevant provisions of GATT 94. The same applies to the anti-dumping and countervailing measures. On customs policy, the Committee regrets that the Community has failed to agree a freeze on the Russian/Ukrainian external tariff. As long as these two countries are not members of the GATT/WTO, they are free to increase their customs protection at will, without prior consultation.

With regard to the labour market, the Committee can see no reason why the families of workers from Russia and the Ukraine who are employed legally in a Member State, should not be given access to the Community labour market.

The Committee considers improvements to the rules negotiated on firms' right of establishment - in particular with regard to financial services - to be urgently needed.

The Committee welcomes the authorization of current payments connected with the bilateral movement of goods, services and persons in convertible currency. It also supports the first attempts at liberalizing capital movements.

The competition arrangements are a weak point of the agreements. The provisions are so soft and non-binding that it is unlikely that any claims would arise, either for the signatories or for European firms.

Russia and Ukraine intend to strengthen the protection of intellectual, industrial and commercial property and achieve a level of protection "comparable" with that of the European Community five years after the agreement's entry into force. The Committee feels that it would have been better to agree on an "equivalent" level of protection. It is also critical of the procedure agreed for the settlement of disputes arising from application of the agreement and the listed multilateral agreements.

Russia and Ukraine will endeavour to ensure that their legislation is gradually made compatible with that of the Community. The Committee welcomes this statement of intent, but by no means fails to appreciate the serious difficulties which approximation of legislation poses.

With regard to economic cooperation, the Committee feels that it would have been better to agree on a list of priorities from the outset.

In contrast to the Europe agreements, the partnership and cooperation agreement with Russia for the first time contains detailed arrangements for cooperation on prevention of illegal activities. The Committee considers this agreement long overdue. It calls on the European Community to initiate the planned consultations and close interaction with Russia rapidly and to provide technical and administrative assistance.

The Committee welcomes the framework agreements under which Russia and Ukraine are to receive technical assistance funds via the Community's TACIS programme. In order to ensure optimum use of the available funds, this technical assistance is to be coordinated closely with contributions from other sources.

II. FUTURE WORK

ECOFIN Section

- Annual economic report 1995
COM(94) 615 final
Deadline: March
- Harmonized consumer price indices
COM(94) 674 final - 95/0009 CNS
Deadline: To be determined

Environment Section

- Indication of the prices of non-food products
COM(94) 431 final - 94/0300 COD
Deadline: March

Regional Development Section

- Specific programme for the modernization of the Portuguese textile and clothing industry
COM(94) 562 final - 94/0280
Deadline: February
- Tourist statistics (to be confirmed)
COM(94) 582 final - 95/0002 CNS
Deadline: February/March
- Cohesion Fund (Annual Report)
COM(95) 1 final
Deadline: to be determined

Social Affairs Section

- Free movement of doctors and mutual recognition of their diplomas
COM(94) 626 final - 94/0305
Deadline: March
- Recognition of qualifications for academic and professional purposes
COM(94) 596 final
Deadline: To be determined

Section for Agriculture

- Common organization of the market in sheepmeat and goatmeat
COM(94) 643 final - 94/0329
Deadline: March
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COM(94) 555 final - 95/0001 CNS
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social and human cost is seen as too high. In this context, the Committee urges that the agreements speak not merely of a market economy, but of a social market economy.

The Committee considers the content of the agreement's general principles to be highly unsatisfactory. It is true that respect of democratic principles and human rights is an important component of the agreement. But this is insufficient. Above all, the Committee regrets the Community's failure to make the introduction and maintenance of market economy principles an integral part of the agreement with Russia. The Committee feels that dropping this element gives a false political signal, which is discouraging for Russia's market-orientated reformers. In addition, the Committee urges that the maintenance of basic social rights and minority rights be made a substantive part of the agreement.

The Committee attaches importance to the evolution clause under which a joint study is to be carried out in 1998 to establish whether the economic preconditions (e.g. basic market economy structures) have been fulfilled in Russia (or Ukraine), thus enabling negotiations to begin on the establishment of a free trade zone.

The Committee reiterates its criticism of the failure to mention the essential contacts between the economic and social groups in the countries concerned. It should be possible to achieve consensus in the Community that there is no chance at all of creating a pan-European economic area if economic and social interest groups are kept in the background. The Committee suggests that during the first revision of the agreements the Community consider whether the time has come to institutionalize contacts between the members of the ESC and the members of corresponding bodies in the Eastern European partner states by setting up a joint advisory committee. In the interim period, dialogue and cooperation between the committee's social groups could be discussed.

The Committee welcomes the reciprocal abolition of quantitative import restrictions, without prejudice to the special rules for textiles, ECSC products and nuclear material. It feels that the safeguard clause agreed in the event of market disturbances should be made more precise and replaced as soon as possible by the relevant provisions of GATT 94. The same applies to the anti-dumping and countervailing measures. On customs policy, the Committee regrets that the Community has failed to agree a freeze on the Russian/Ukrainian external tariff. As long as these two countries are not members of the GATT/WTO, they are free to increase their customs protection at will, without prior consultation.

With regard to the labour market, the Committee can see no reason why the families of workers from Russia and the Ukraine who are employed legally in a Member State, should not be given access to the Community labour market.

The Committee considers improvements to the rules negotiated on firms' right of establishment - in particular with regard to financial services - to be urgently needed.

The Committee welcomes the authorization of current payments connected with the bilateral movement of goods, services and persons in convertible currency. It also supports the first attempts at liberalizing capital movements.

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Transport Section

- Voice Telephony (ONP)
COM(94) 689 final
Deadline: May

Energy Section

- Green Paper on EU Energy, Policy
COM(94) 659 final
Deadline: to be determined

III. APPOINTMENTS

Following the accession of Austria, Finland and Sweden, the EU Council appointed the following new ESC members:

Austrian members:

Mrs	Eva Belabed	Mrs	Anne-Marie Sigmund
Mr	Wolfgang Burkhard	Mr	Klaus Stöllnberger
Mr	Thomas Delapina	Mr	Rudolf Strasser
Mr	Harald Ettl	Mr	Ernst Tüchler
Mr	Johann Farnleitner	Mr	Heinz Vogler
Mr	Ferdinand Maier	Mr	Gustav Zohrer

Finnish members:

Mr	Filip Hamro-Drotz	Mr	Markku Lemmetty
Mr	Seppo Kallio	Mr	Martti Reuna
Mrs	Tuulikki Kannisto	Mr	Sampsa Saralehto
Mr	Jorma Kontio	Mrs	Ulla Sirkeinen
Mr	Eero Lehti		

Swedish members:

Mr	Lars Kritz	Mr	Sten Erland Daniel Olausson
Mr	Sture Erik Lindmark	Mr	Jan Erik Anders Olsson
Mr	Anders Lönnberg	Mrs	Aina Margareta Regnell
Mrs	Christina Lundh	Mrs	Turid Ström
Mr	Staffan Mats Wilhelm Nilssen	Mrs	Britta Christina Wahrolin
Mr	Lars Allan Nyberg	Mr	Lars Uno Westerlund

IV. PRESENCE AND INFLUENCE OF THE ECONOMIC AND SOCIAL COMMITTEE

Activities of the ESC President and Vice-Presidents

6 January 1995: talks in Brussels with Jean Matteoli, President of the French Social and Economic Council.

18 January 1995: the President of the Economic and Social Committee met the President-elect of the European Commission, Jacques Santer and the outgoing President, Jacques Delors, in Strasbourg.

Mr Ferrer had a detailed discussion with Mr Santer on the challenges confronting the European Union in the new phase it was entering. He congratulated Mr Santer on his speech to the European Parliament the previous day and expressed satisfaction at their common assessment of priority issues, in particular the need for an economically powerful Europe and the problems of growth and employment.

Mr Ferrer stressed the unanimously held viewpoint that growth would only generate a significant number of jobs if the requisite structural reforms announced in the White Paper on Growth, Competitiveness and Employment were tackled.

Mr Santer gave a warm welcome to Mr Ferrer's proposal that the ESC should contribute to the deliberations planned in preparation for the Inter-Governmental Conference. Concurrently he told Mr Ferrer that he intended to step up cooperation between the Commission and the ESC. Lastly, he accepted the invitation to attend an ESC Plenary Session in the near future to present the new Commission's programme.

Mr Ferrer then met Mr Delors, whom he thanked on behalf of the ESC. He expressed his appreciation of the interest Mr Delors had taken in the social and economic groupings which the ESC represented and expressed his hope that Mr Delors' unique experience would be placed at the service of a stronger and broader Europe. He reminded Mr Delors that he would always be welcome at the ESC and that its forum would always be open to him.

18-19 January 1995: meeting in Brussels with Belgian, Spanish and French Regional Social and Economic Councils.

19 January 1995: Philip Noordwal, Employers' Group and ESC Bureau member, accompanied by Director-General, Adriano Graziosi, represented President Ferrer at the inaugural meeting of the Greek ESC in Athens.

23 January 1995: attendance by President Ferrer at an EP Temporary Committee on Employment hearing.

24 January 1995: address by the ESC President to the Forum on the Future of Central Europe after Essen and pending the Commission White Paper, organized by the European League for Economic Cooperation and the International Vienna Council.

25 January 1995: attendance at the New Year reception, given by the King of the Belgians.

Other activities

11 January 1995, in Brussels: before the members of the Section for Transport and Communications, a statement by Mr Pam Cornelissen, Chairman of the EP Committee on Transport and Tourism.

31 January 1995, in Brussels: attendance of a Industry Section delegation for the Commission hearing on certain categories of technology-transfer agreements.

V. FACT-FINDING VISITS

During the period covered by this Bulletin, the following groups visited the Economic and Social Committee:

- 6 January 1995 George Mason University (United States)
- 6 January 1995 Interregional Trade Union Council Nord-Pas-de-Calais - Hainaut - West-Vlaanderen - Kent, Haine-St-Paul, (Belgium)
- 17 January 1995 Helsinki Institute, Finland
- 18 January 1995 Länsstyrelsen i Kymmene Län (The Provincial Government of Kymi), Kouvola (Finland)
- 18 January 1995 KEY TO EUROPE - College for Public Information of Groningen (Netherlands)
- 19 January 1995 Enfield College (United Kingdom)
- 20 January 1995 Université de Paris 13 (Saint-Denis - Gestion des entreprises et des administrations) (France)
- 26 January 1995 University College of Wales, Swansea - Department of Law (United Kingdom)
- 27 January 1995 Universität zu Köln - Wirtschafts- und Sozialgeographisches Institut, Cologne (Germany)
- 27 January 1995 Institut international de formation de techniciens et cadres de Guadeloupe et Martinique
- 30 January 1995 Salisbury College (United Kingdom)

